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*Attorneys for Debtor Brandy N. Penny*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA (RICHMOND)**

IN RE:

Brandy N. Penny,

Debtor.

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Brandy N. Penny,

Movant,

v.

Sleep Disorder Center of Fredericksburg,  
PLC,

Respondent.

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Case No.: 20-32040-KLP

CHAPTER 7

**DEBTOR'S MOTION TO REOPEN**

Pursuant to 11 U.S.C. § 350 and Local Rule 5010-1, Debtor Brandy N. Penny ("Ms. Penny") hereby moves for the entry of an Order reopening this bankruptcy case. Ms. Penny specifically seeks to reopen her case for the limited purpose of adjudicating her

claim that creditor Sleep Disorder Center of Fredericksburg, PLC (“SDCF”) should be: a) held in civil contempt of the Discharge Order entered in this case; and b) sanctioned therefor in the form of a damages award to Ms. Penny. This Motion is supported by the accompanying Memorandum of Points and Authorities.

***Pursuant to Local Rule 5010-1, Ms. Penny hereby states that any objections to the reopening of the case must be filed at least seven (7) days prior to the December 8, 2021 hearing set forth in the Notice of Motion and Hearing filed contemporaneously herewith.***

#### **MEMORANDUM OF POINTS AND AUTHORITIES**

On April 23, 2020, Ms. Penny filed a petition under Chapter 7 in this Court. Debtor received a discharge order on August 10, 2020, and the case was closed on August 17, 2020. [ECF Nos. 1, 20, 22].

Under 11 U.S.C. § 350(b) and Bankruptcy Rule 5010, courts may reopen a closed bankruptcy case for “cause.” The Fourth Circuit has adopted a discretionary approach to reopening bankruptcy cases and has stated that courts should liberally grant such relief. *In re Potes*, 336 B.R. 731, 732 (Bankr. E.D. Va. 2005).

A debtor’s right to pursue sanctions against a creditor who violates a discharge order is well settled. *United States v. Rivera Torres*, 309 B.R. 643, 648-49 (1<sup>st</sup> Cir. BAP 2004). The adjudication of such a claim, furthermore, certainly constitutes good cause for reopening a bankruptcy case. *See 4 Collier on Bankruptcy* ¶ 524[c] (noting that “courts

should readily reopen a closed bankruptcy case to ensure that the essential purposes of the discharge are not undermined”).

Here, Ms. Penny seeks to reopen her bankruptcy case for the limited purpose of adjudicating her discharge injunction violation claim against creditor SDCF. A copy of the Motion for Order to Show Cause which Ms. Penny intends to file against creditor SDCF (related to violations of the discharge injunction provided under 11 U.S.C. § 524) is attached hereto. In light of such good cause, the Court should reopen the case to allow the requested adjudication.

### **CONCLUSION**

For the reasons explained in this Memorandum, the Court should enter the proposed order filed herewith, granting the Motion to Reopen so that Ms. Penny may pursue relief that she is entitled to and that is within the power of this Court to grant.

Respectfully submitted this 5th day of November, 2021.

**PRICE LAW GROUP, APC**

By: /s/ Susan Rotkis  
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**PROOF OF SERVICE**

I hereby certify that a true copy of the 1) Motion to Reopen Bankruptcy; and 2) Notice of Motion and Notice of Hearing, were served via process server upon the registered agent for Sleep Disorder Center of Fredericksburg, PLC; and 2) mailed to the previous Chapter 7 Trustee, Bruce E. Robinson, and the U.S. Trustee per the attached service list.

**SERVICE LIST**

**VIA PROCESS SERVER:**

Sleep Disorder Center of Fredericksburg, PLC  
c/o O'Connor G Ashby  
315 William Street  
Fredericksburg, VA 22401

**VIA MAIL:**

Previous Trustee  
Bruce E. Robinson  
P.O. Box 538  
South Hill, VA 23970-0538

U.S. Trustee  
John P. Fitzgerald, III  
Office of the U.S. Trustee – Region 4 -R  
701 E. Broad Street, Ste. 4304  
Richmond, VA 23219

/s/Florence Lirato